

GRAY
Serial No. 09/486,183
April 21, 2004

REMARKS/ARGUMENTS

Claims 12-24 stand rejected in the outstanding Official Action. Applicant offers an amendment to claim 12 and therefore believes claims 12-24 are patentable.

Claims 12-14, 16, 18, 20 and 21 stand rejected under 35 USC §102 as anticipated by or under §103 as obvious in view of Vane as previously applied. Applicant proposes to amend the method of claim 12 by specifying that the incorporating step is one of "splicing, interlacing and otherwise distributing" the additional fibers in the reinforcing fibers. This splicing, interlacing and distribution of fibers is clearly shown in Applicant's specification and is discussed on page 3, lines 11-14 of the application as originally filed.

Applicant's method of incorporating additional fibers, i.e., a distribution of fibers, serves to provide the varying strength characteristic of the pultruded product without the difficulties of a stitched patch of reinforcing material which, in practicality, will clog most pultrusion nozzles.

The Examiner correctly notes that the Vane reference teaches reinforcing layers which are discussed in claims 1 and 16 of Vane as a layer which is "stitched" to other layers and is then passed through a pultrusion die (see claim 17 as pointed out by the Examiner in the Official Action). While apparently unrecognized by the Vane reference, the pulling of an additional layer stitched on the material such as claimed in Vane would serve to clog and thereby fracture a pultrusion product being formed by such a nozzle.

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Applicant's invention, solves this problem, by splicing, interlacing or otherwise distributing the additional fibers in the reinforcing fibers so that it may be pultruded through the pultrusion die. Applicant has now positively recited the details of Applicant's incorporating step.

Applicant notes that because claim 12 is in "step plus function" format, i.e., the specific method steps of the addition of the "additional fibers in order to vary the strength characteristics of the final product substantially without altering the cross-sectional area thereof" have not been recited. Under the sixth paragraph of §112, such as claim must be considered a step-plus-function claim and the limitations of the corresponding steps set out in Applicant's specification must be read into these claims.

Applicant's specification, as noted above, specifies that the incorporating step comprises splicing/interlacing/otherwise distributing the additional fibers, and therefore it is the gradual distribution of these additional fibers in the existing reinforcing fibers that must be read as included in Applicant's independent claim step.

There is no teaching of any distributed additional fibers in the Vane reference and indeed it suggests that a patch of woven material is stitched in place. Thus Vane actually teaches away from the claimed method step of distributed additional fibers. However, in view of the fact that the Examiner is apparently not reading that limitation into the claims, Applicant has set out in this Amendment Under Rule 116 this distribution aspect of the incorporating step, and therefore entry of this Amendment is respectfully requested.

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Entry of the Amendment is appropriate under Rule 116 because it does not add additional claims, does not add new matter and cannot raise new issues requiring further search or consideration (inasmuch as this limitation was in the claim all along under the appropriate claim construction standard set out in the sixth paragraph of §112). The consideration of this addition or the proper reading of the independent claim establishes the pending claims to be patentable over the cited Vane reference, thereby obviating any need for Appeal. Therefore, entry under Rule 116 is appropriate.

Having responded to all objections and rejections set forth in the outstanding Official Action, it is submitted that claims 12-24 are in condition for allowance and notice to that effect is respectfully solicited. In the event the Examiner is of the opinion that a brief telephone or personal interview will facilitate allowance of one or more of the above claims, he is respectfully requested to contact applicant's undersigned representative.

Respectfully submitted,

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